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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

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In re:	: Chapter 11
	: :
CIRCUIT CITY STORES, INC., <u>et al.</u> ,	: 1Case No. 08-35653 (KRH)
	: :
Debtors.	: :
	: Jointly Administered
----- X	

**ORDER DENYING MOTION OF KARL ENGELKE FOR
RECONSIDERATION OF ORDER DISALLOWING CLAIM**

THIS MATTER having come before the Court on Karl Engelke's ("Mr. Engelke") *Motion for Reconsideration of Order Disallowing Claim and Memorandum in Support* (the "Motion to Reconsider") (Docket No. 12289) and the Liquidating Trustee's Response in Opposition to the Motion of Karl Engelke for Reconsideration of Order Disallowing Claim (the "Objection") (Docket No. 12339); and it appearing that due and proper notice and service of the Motion to Reconsider and the Objection and the notice of hearing on the Motion to Reconsider (the "Hearing") was good and sufficient; having considered the Motion to Reconsider and the Objection and the argument presented at the Hearing; and it appearing that the relief requested in the Motion to Reconsider is not warranted,

IT IS HEREBY ORDERED, FOUND AND DETERMINED THAT:¹

.1 For the reasons contained herein and articulated in Court on August 23, 2012, the Motion to Reconsider is DENIED.

2. A creditor moving for reconsideration of an order disallowing its claim under F.R.B.P. 3008 bears the burden of proving that reconsideration of the claim is appropriate. *In re Durham*, 329 B.R. 899 (Bankr. M.D. Ga. 2005) (citing *In re Rayborn*, 307 B.R. 710, 720 (Bankr. S.D. Ala. 2002)). “The Bankruptcy Court’s discretion in deciding whether to reconsider a claim is virtually plenary, as the court may decline to reconsider without a hearing or notice to the parties involved.” *In re Genesis Health Ventures, Inc.*, 362 B.R. 657, 661 (D. Del. 2007) (citing *In re Colley*, 814 F.2d 1008, 1010 (5th Cir. 1987)) (emphasis added).

3. For the reasons articulated in Court on August 23, 2012, in the exercise of its discretion, the Court finds that Mr. Engelke has failed to meet his burden of proof to establish the requisite excusable neglect that would justify granting the Motion to Reconsider.

4. The Liquidating Trust shall serve a copy of this Order on Mr. Engelke on or before five (5) business days from the entry of this Order.

5. This Court shall retain jurisdiction to hear and determine all matters arising from or relating to this Order.

Dated: Richmond, Virginia
_____, 2012

HONORABLE KEVIN R. HUENNEKENS
UNITED STATES BANKRUPTCY JUDGE

¹ Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052.

WE ASK FOR THIS:

/s/ Paula S. Beran

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CERTIFICATION

I hereby certify that the foregoing proposed Order has been either served on or endorsed by all necessary parties.

/s/ Paula S. Beran